

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Competitive Products Price Changes
Rates of General Applicability

Docket No. CP2013-3

PUBLIC REPRESENTATIVE COMMENTS
(October 26, 2012)

This proceeding commenced on October 11, 2012, with the filing by the Postal Service of its Notice of changes in rates of general applicability for competitive products.¹ On October 12, 2012, the Commission issued an order establishing this docket, setting a deadline for comments, and naming the undersigned Public Representative.² As of the date of these comments, the Chairman has issued three information requests (ChIRs).³ The Postal Service responded to ChIR No. 1 on October 24, 2012, and to ChIR No. 2 on October 25, 2012.⁴ The Postal Service also filed an erratum to its response to question 7 of ChIR No. 1 on October 25.⁵ On October 26, 2012, David B. Popkin filed comments and a motion.⁶

Price changes for competitive products are reviewed pursuant to 39 U.S.C. § 3633(a) and Commission regulations under 39 CFR part 3015. These statutory and

¹ Notice of the United States Postal Service of Changes in Rates of General Applicability for Competitive Products Established in Governors' Decision No. 12-2, October 11, 2012 (Notice).

² Notice and Order Concerning Changes in Rates of General Applicability for Competitive Products, October 12, 2012 (Order No. 1500).

³ Chairman's Information Request No. 1, October 17, 2012; Chairman's Information Request No. 2, October 19, 2012; Chairman's Information Request No. 3, October 25, 2012.

⁴ Responses of the United States Postal Service to Chairman's Information Request No. 1, October 24, 2012 (Response to ChIR No. 1). Portions of the responses were filed under seal. Responses of the United States Postal Service to Chairman's Information Request No. 2, October 25, 2012 (Response to ChIR No. 2).

⁵ Response of the United States Postal Service to Chairman's Information Request No. 1, Question 7 [ERRATA], October 25, 2012.

regulatory provisions require each competitive product to cover its attributable costs (39 U.S.C. § 3633(a)(2)), prohibit the subsidization of competitive products by market dominant products (39 U.S.C. § 3633(a)(1)), and require that competitive products collectively make an appropriate contribution to the recovery of the Postal Service's total institutional costs. 39 U.S.C. § 3633(a)(3). The rates contained in Governors' Decision No. 12-2 will generate a sufficient contribution to institutional costs.⁷ Accordingly, market dominant products will not subsidize competitive products.

However, there is a high probability that Parcel Post will not cover its attributable costs. There is no way to determine whether the cost coverage for competitive Post Office Box Service takes account of higher space cost (compared to market dominant PO Boxes) and additional labor for "enhancements." There are also clear demonstrations of market power in the enormous cost coverage for PO Box Service⁸ and the enormous price increase for First-Class Package International Service (FCPIS).⁹ Finally, the proposed MCS language permitting promotional discounts or rebates for certain International Mail products is too broad.¹⁰

Parcel Post cost coverage. The projected cost coverage for Parcel Post barely exceeds 100 percent.¹¹ As a consequence, small forecasting errors could produce a cost coverage below 100 percent. A slightly higher price increase would provide insurance against a violation of 39 U.S.C. § 3633(a)(2). Such a price increase would seem feasible given that the increase for Parcel Post is less than half the increase for FCPIS.

Post Office Box Service cost coverage. The projected cost coverage for competitive PO Box Service is much higher than that for market dominant PO Box Service. However, the methodology for splitting costs and revenues between

⁷ See "REDACTED Annex Jan-Public.xls".

⁸ See "PO Box Split Cost Model FY2013_v2_public.xls" Tab "2013 Proj Cost Coverages".

⁹ See "Summary of Price Increase.xlsx" and "CP2013-3-FCPIS.xls" (under seal).

¹⁰ See Attachment to Governors' Decision No. 12-2 at 88, 97, 107, 123.

¹¹

competitive and market dominant PO Box Service is crude. The methodology implicitly assumes that unit costs (such as for space and labor) are the same for competitive and market dominant PO Boxes. The methodology thus fails to account for any extra costs for providing “enhancements.”

Violations of 39 CFR § 3020.31(d). The cost coverages and price increases for PO Box Service and FCPIS demonstrate that the Postal Service has, “without risk of losing a significant level of business . . . [s]et the price[s] of such product[s] substantially above cost [or r]aise[d] prices significantly”

Overly broad MCS language. The Postal Service wishes to “offer a promotion in the form of a discount or rebate . . . during an established promotional period to mailers that comply with the eligibility requirements of the promotional program.” Under this language, eligibility requirements could be established that applied only to a single mailer and prevailed for an “established . . . period” of a year or longer. The language effectively negates creation or review of new NSAs.

Respectfully submitted,

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